

Remarks

The Examiner's analysis and remarks set forth in the Office Action are noted with appreciation. Reconsideration of the application is requested in view of the foregoing amendments and the following remarks. The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Drawings

A new replacement drawing denoted as a "replacement sheet" is submitted herewith.

Claim Rejections - 35 USC § 102 and § 103

By way of the foregoing amendments, claim 1 has been amended in essence to include the limitations of now cancelled claim 9 which was previously depended claim 1. Accordingly, the amendment is not believed to introduce a new issue not already considered by the Examiner.

In regard to previously submitted claim 9, the Examiner was of the view that the subject matter thereof would have been unpatentable over US 5603703 (Elsberry) in view of US 6,434,507 (Clayton). According to the Examiner, it would have been obvious to one of ordinary skill in the art to have modified Elsberry with the locator, positioning system and image-guided surgical workstation of Clayton in order to provide a system that reliably can locate the position of the catheter in order to accurately perform a procedure.

The problem with the Examiner's analysis is that Clayton and Elsberry have not been found to provide any reasonable basis to suggest that it would be desirable to use a positioning system like that of Clayton to guide a hollow stylus inserted in a catheter to a target region. While image-guided surgical systems have been known for quite some time, the use of such systems to guide a hollow rigid tube that has been inserted into a flexible infusion catheter had not previously been contemplated in the art in view of the evidence of record. Clayton does mention that the instrument 200 may be a catheter, but there is lacking any mention or suggestion of tracking the position of a hollow stylus inserted in a catheter for effecting proper positioning of the catheter. Elsberry, on the other hand, offers no suggestion of tracking the stylus thereof in a positioning system.

Therefore, for at least the foregoing reasons, the rejection of claim 1 should be withdrawn.

Regarding the other independent claims, they have been similarly amended to recite a remotely detectable locator on the hollow rigid tube trackable by a positioning system whereby the position of the rigid tube can be positionally tracked by the positioning system for proper positioning of the infusion catheter in relation to a patient's body into which the hollow rigid tube and catheter have been inserted, or the use of a positioning system to track a locator on the rigid tube for proper guidance of the infusion catheter to the target. Accordingly, such claims define over the prior art for reasons related to those discussed above with respect to claim 1.

If the Examiner finds amended claim 1 to be patentable, the amendments made to the other independent claims serve to reduce the issues before the Examiner and provide for the allowance of the application. Accordingly, entry of the amendments to the other independent claims is respectfully requested, as is their allowance.

Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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